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SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THURSTON COUNTY

PUBLIC UTILITY DISTRICT NO. 1 OF  
SNOHOMISH COUNTY, a municipal  
corporation,  
  
Plaintiff,  
  
v.  
  
THE STATE OF WASHINGTON and  
BRIAN SONNTAG, in his official  
capacity as State Auditor,  
  
Defendants.

CASE NO. 99 2 02377 1  
  
COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF

For its declaratory and injunctive relief complaint, plaintiff alleges as follows:

Nature of Action

1. This case concerns whether Initiative 695 (“Initiative 695” or the “Initiative”) applies to (a) the establishment and collection of rates and charges for electric energy and water, for wastewater collection, treatment and disposal, and for other services, facilities and commodities sold, furnished or supplied by public utility districts (“PUDs”), (b) other monetary charges by PUDs that are not commonly understood to be taxes, and/or (c) the levy of special assessments by PUDs.  
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1           2.       Plaintiff is not seeking to invalidate Initiative 695. Thus, plaintiff does not dispute  
2 that Initiative 695, if otherwise valid, would apply to the imposition of statutorily authorized  
3 property taxes by PUDs. Rather, plaintiff seeks confirmation that the definition of the term “tax” in  
4 Section 2 of Initiative 695 does not apply to rates and charges for utility and other services, facilities  
5 and commodities provided by PUDs acting in a proprietary capacity, to monetary charges by PUDs  
6 that are not commonly understood to be taxes, or to the levy of special assessments by PUDs.

7           3.       The passage of Initiative 695 has resulted in uncertainty for plaintiff and other PUDs  
8 regarding the proper interpretation and application of Section 2. This uncertainty needs to be  
9 resolved at the earliest possible time so that PUDs, which provide electric, water and wastewater  
10 utility services to over 2 million residents and businesses across the State, can continue to function.

11          4.       Initiative 695 was approved by the voters on November 2, 1999 and is stated to be  
12 effective as of January 1, 2000. The ballot title for the Initiative was “Shall voter approval be  
13 required for any tax increase, license tab fees be \$30 per year for motor vehicles, and existing  
14 vehicle taxes be repealed?” Neither the ballot title nor the language of the Initiative contains any  
15 indication of any intention that the Initiative would apply to the rates and charges or special  
16 assessments of PUDs.

17          5.       Section 2 of Initiative 695 states in relevant part as follows:

- 18           (1)       Any tax increase imposed by the state shall require voter approval.  
19           (2)       For the purposes of this section, “tax” includes, but is not necessarily  
20                      limited to, sales and use taxes, property taxes, business and occupation  
21                      taxes, excise taxes, fuel taxes, impact fees, license fees, permit fees,  
22                      *and any monetary charge by government.*  
23           (3)       For the purpose of this section, “tax” does not include:  
24                      (a)       Higher education tuition, and  
25                      (b)       Civil and criminal fines and other charges collected in cases of  
26                      restitution or violation of law or contract.  
             (4)       For the purposes of this section, “tax increase” includes, but is not  
                    necessarily limited to, a new tax, a monetary increase in an existing  
                    tax, a tax rate increase, an expansion in the legal definition of a tax  
                    base, and an extension of an expiring tax.  
             (5)       For the purposes of this section, “state” includes, but is not necessarily

1 limited to, the state itself and all its departments and agencies, any  
2 city, county, special district, and other political subdivision or  
governmental instrumentality of or within the state.

3 (Emphasis added).

4 6. The definition of the term “tax” in Initiative 695 is ambiguous. Since the passage of  
5 Initiative 695, some members of the public and the media have asserted that Initiative 695 applies to  
6 electric, water and wastewater utility rates and charges, as well as other “monetary charges,”  
7 established and collected by PUDs. Plaintiff seeks confirmation that Initiative 695 does not apply to  
8 such rates and charges, to other monetary charges by PUDs that are not in the nature of taxes, or to  
9 special assessments levied by PUDs.

10 7. It is a matter of significant public interest that the Court resolves these issues now.  
11 Plaintiff and other PUDs provide electric, water and/or wastewater utility services to more than 2  
12 million residential, business and industrial customers across the State. If literally every new and  
13 increased “monetary charge” by PUDs is subject to voter approval beginning on January 1, it will be  
14 difficult for the plaintiff and many other PUDs across the State to continue to operate. As a practical  
15 matter, securing voter approval, as that term is generally understood, for every “monetary charge” by  
16 plaintiff would require the voters would be at the polls almost every day. In addition, it is unclear  
17 which voters would be required to grant such approval. Moreover, in many instances (for example,  
18 the sale by plaintiff of surplus power to other utilities), such a requirement actually would be  
19 detrimental to local ratepayers, in that such sales actually reduce rates otherwise charged to the  
20 PUD’s customers. On the other hand, if plaintiff does not submit all new and increased “monetary  
21 charges” to voter approval, plaintiff risks violating the requirements allegedly imposed by Initiative  
22 695, and subsequently being required by the courts to disgorge the amounts charged and collected  
23 without voter approval.

24 8. As the January 1 effective date of the Initiative approaches, the uncertainty as to the  
25 interpretation and application of Initiative 695 makes it increasingly difficult for plaintiff to enter  
26 into contracts to buy and sell electricity, to lease or sell property, to set utility rates, to budget for the

1 upcoming fiscal year, to plan needed capital improvement projects and related financings, and to  
2 otherwise continue to operate its utility enterprises in a commercially feasible and financially  
3 responsible manner.

#### 4 Jurisdiction and Venue

5 9. The Court has jurisdiction under the Uniform Declaratory Judgments Act, RCW 7.24  
6 et seq., because a controversy exists among the parties concerning the applicability of Initiative 695  
7 to rates and charges established and collected by PUDs, to other monetary charges not in the nature  
8 of taxes, and to special assessments levied by PUDs.

9 10. Venue is proper in this forum under RCW 4.92.010(5), which provides that actions  
10 against the State of Washington may be brought in Thurston County.

#### 11 Parties

12 11. Plaintiff Public Utility District No. 1 of Snohomish County (“Snohomish PUD”) is a  
13 municipal corporation organized under the laws of the State of Washington.

14 12. Defendant State of Washington is charged with the enforcement of State initiatives  
15 that have been enacted into law, and is also being sued as the representative of the citizens of the  
16 State of Washington. In addition, defendant State of Washington is a proper party to this action  
17 under RCW 7.24.110 because it is a customer and ratepayer of Snohomish PUD.

18 13. Defendant Brian Sonntag is the State Auditor of Washington and has the power and  
19 duty to audit government accounts for compliance with both financial and legal requirements,  
20 including the accounts of plaintiff Snohomish PUD.

#### 21 Factual Background

22 14. Early in this century, electric power in the State of Washington was provided  
23 primarily by private electric companies, most of which were subsidiaries of out-of-state utility  
24 holding companies. These companies exercised monopoly control over their service areas, charged  
25 what were considered by many to be exorbitant rates, and were under the control of owners and  
26 managers located elsewhere in the country. The private utilities often refused to provide service to

1 rural customers, or did so only upon payment of prohibitive up-front charges.

2 15. The public power movement emerged in Washington in the late 1920s, in part as a  
3 reaction to these circumstances. The primary goal of this movement was to provide residents and  
4 businesses around the State with the option of local control over utility rates and service. The public  
5 power movement sponsored the first voter initiative ever enacted in Washington, known as Initiative  
6 No. 1, which was approved by the voters in 1930. Initiative No. 1 authorized the formation of PUDs  
7 in any county within the State upon approval of the voters in that county.

8 16. The initiative, and subsequent attempts in a number of counties to establish PUDs,  
9 was vigorously opposed and litigated by the private utilities. The Washington Supreme Court finally  
10 upheld the constitutionality of Initiative No. 1 in 1936. Twenty-six PUD elections were held in that  
11 year, of which 15 were successful. Over the next 20 years, ongoing initiative, legislative and legal  
12 battles were fought between public power and private utility interests over the statutory powers of  
13 PUDs, the acquisition of private utility systems by PUDs, and the development of hydroelectric  
14 generating resources on the Columbia River.

15 17. There are now 28 operating PUDs in Washington that provide electric, water and/or  
16 wastewater utility and related services and products to customers in all but 11 of the counties within  
17 the State. All of the PUDs are governed by an elected commission of from three to five members,  
18 and managed by a professional staff. The PUDs collectively employ more than 2,500 people and  
19 have aggregate annual revenues in excess of \$1.3 billion.

20 18. Unlike private utilities, PUDs are not profit making enterprises. They establish rates  
21 and charges solely to recover their costs. Any revenues in excess of the costs of their utility  
22 operations are returned to their customers in the form of lower rates and charges. They do not  
23 answer to stockholders, but rather to the voters within the district, who are also their customers and  
24 ratepayers.

25 19. An elected three-member commission governs plaintiff Snohomish PUD. Snohomish  
26 PUD's boundaries include all of Snohomish County, as well as Camano Island in adjoining Island

1 County. Snohomish PUD was established in 1936 and began its electric utility operations in 1949.  
2 It operates retail electric, electric generating and water utilities. Snohomish PUD is the largest PUD  
3 in Washington in terms of customers and annual revenues.

4 20. Snohomish PUD owns and operates a 112-megawatt hydroelectric generating plant  
5 located on the Sultan River east of Everett, Washington, as well as a 52-megawatt renewable  
6 resource steam-electric co-generation plant in Everett, Washington, and has an 8% ownership  
7 interest in a 1,340-megawatt coal-fired steam-electric generating plant located near Centralia,  
8 Washington. Snohomish PUD purchases about 40% of its power supply from Bonneville Power  
9 Administration. Approximately 40% of its power supply is purchased from other utilities and power  
10 marketers under both short- and long-term contracts. The remaining 20% of its power supply is  
11 provided by its own generating resources.

12 21. Most PUDs, including Snohomish PUD, are engaged in the retail sale and distribution  
13 of electric energy. Many, including Snohomish PUD, also are engaged in the generation and  
14 transmission of electric energy, including so-called "green" energy generated by hydroelectric  
15 projects and resource recovery co-generation projects. PUDs' electric utility customers consist not  
16 only of residential customers, but also commercial and industrial enterprises, including innumerable  
17 smaller businesses and many of the largest employers within the State. Snohomish PUD's  
18 customers, include Boeing and Microsoft, as well as departments and agencies of the State.

19 22. PUDs generate power from a variety of sources, including hydroelectric projects, and  
20 combustion turbine plants that burn waste products, coal and/or natural gas. PUDs also transmit  
21 power both to and from other private and municipally owned electric utilities both within and  
22 outside the State through a complex regional transmission system, most of which is owned by  
23 Bonneville Power Administration or private utilities.

24 23. The PUDs that operate electric utilities, including Snohomish PUD, engage in both  
25 wholesale and retail purchases and sales of electric power. A typical retail sale of power is the  
26 purchase of electric power by a local customer for use in his or her home. Retail sales also include

1 power sold to industrial plants and commercial business users. In contrast, wholesale power  
2 purchases and sales occur between and among utilities and power marketing companies. The power  
3 may be sold or purchased for resale – that is, for ultimate sale to customers within a utility’s service  
4 area. PUDs and other utilities that do not have their own generating plants, or which do not have  
5 sufficient generation to meet their retail loads, must purchase power on the open market, from  
6 Bonneville Power Administration, other utilities, or power marketing companies, in order to have  
7 sufficient power to supply their own customers.

8       24. The electric power wholesale market, and increasingly the retail market as well, is  
9 very dynamic. Both supply and demand are influenced by a variety of factors, some of which are  
10 subject to constant change, on a seasonal, weekly, daily and even hourly basis. Temperature,  
11 precipitation, price and availability of natural gas, coal or other fuels, environmental regulations,  
12 general business cycles, economic development, transmission access, outages, and generating plant  
13 down-time for required maintenance or repairs, among other factors, both locally and regionally, all  
14 affect the availability and price of electric power. These various factors impact both the revenues  
15 and expenses of PUDs. In this dynamic market, Snohomish PUD and other PUDs must be able to  
16 respond quickly to changing market conditions in order to meet their customers’ needs and their  
17 costs of doing business.

18       25. Snohomish PUD must purchase and sell power on the wholesale market on both a  
19 long-term and a short-term basis in order to meet its customers’ electric energy requirements. In  
20 particular, power must be purchased and sold on a weekly, daily, hourly, and even instantaneous  
21 basis in order to balance the PUD’s electric power resources with electric energy loads that vary  
22 throughout the day. The amounts of energy available and the price for such energy vary constantly  
23 on a moment-to-moment basis. PUDs and other utilities therefore enter into various types of power  
24 purchase and sale agreements to manage the cost and availability of their power resources.

25       26. In addition, “energy futures” markets are developing for the advance purchase and  
26 sale of electric energy for future delivery. PUDs and other electric utilities can use energy futures

1 contracts to protect against future changes in the price or availability of power.

2 27. PUDs, like plaintiff Snohomish PUD, with hydroelectric generating resources may  
3 also enter into contracts for the sale of generating “capacity,” without any associated energy, to other  
4 utilities that may need power on an instantaneous basis to meet “peaks” in their energy requirements  
5 (for example, on a hot summer day, or a cold winter night).

6 28. Many PUDs, including plaintiff Snohomish PUD, also provide water and/or  
7 wastewater utility services, often to customers in remote or sparsely populated areas who otherwise  
8 would not be served by private or municipally-owned water or wastewater utilities. PUDs thus have  
9 a significant impact on the day-to-day lives of countless citizens across the State.

10 29. Pursuant to RCW 54.16.040, PUDs have “full and exclusive authority to sell and  
11 regulate and control the use, distribution, rates, service, charges, and price” of electric current to  
12 their customers, free from the jurisdiction and control of the State Utilities and Transportation  
13 Commission. Similar authority, RCW 54.16.030 and 54.16.230, exists with respect to water and  
14 wastewater service. Because it has outstanding revenue bonds, Snohomish PUD is required by law  
15 (RCW 54.24.080) to establish and collect rates and charges for electric energy and water and other  
16 services, facilities and commodities sold, furnished, or supplied by the district that are fair and non-  
17 discriminatory, and adequate to provide revenues sufficient for the payment of debt service on such  
18 bonds, the proper operation and maintenance of the utility, and all repairs and renewals thereto.

19 30. In addition to rates for electric, water and wastewater services, Snohomish PUD and  
20 other PUDs establish and collect a wide variety of other “monetary charges” in the daily conduct of  
21 their utility operations, many of which are established by negotiated contract or after public bidding.  
22 These include charges for:

- 23 • Power and other energy-related products and services sold on the open market  
24 to wholesale purchasers outside of the PUD
- 25 • Electric power and water sold to other municipalities within the PUD’s  
26 boundaries



- Point-to-point electric power transmission services for other power purchasers and sellers
- Power scheduling services for third parties
- Sale of used or surplus property
- Engineering, design, consulting, project management, construction, maintenance, repair and other services provided by contract to other retail electric and water utilities or other persons or entities
- Low-interest energy conservation loans to utility customers
- Energy and water conservation products sold to utility customers
- Electric, water and wastewater new service connections
- Attachment or installation of television, telecommunication and other wire or cable to existing poles or in existing right-of-ways
- The lease of real property and personal property, including transformers and other equipment, owned by the PUD
- The lease or use of space within existing PUD buildings and facilities by concessionaires, community groups and others
- The sale of U.S. Treasury and other securities purchased for investment purposes
- The purchase by investors of PUD revenue bonds to finance capital projects
- Taxes or payments in lieu of taxes imposed by other municipalities that are passed on to ratepayers
- Employee medical, dental and other benefits paid in whole or in part by employees
- Various other utility-related products and services

All of these are “monetary charges” imposed by PUDs in the conduct of their utility enterprises. In most cases, it would be impossible as a practical matter to secure voter approval for

1 every new or increased charge. And none of these charges is commonly understood to constitute a  
2 “tax.”

3 31. Snohomish PUD and other PUDs also have the power to create so-called “local utility  
4 districts” for the purpose of financing a portion or all of the costs of acquisition, construction and/or  
5 operation of facilities for the local distribution of water or electric energy, as well as for street  
6 lighting, among other things. A local utility district consists only of properties within a designated  
7 boundary, and is not a legal entity separate from the PUD. PUDs are authorized to levy and collect  
8 “special assessments” on properties within the boundaries of such local utility districts to pay such  
9 costs. The special assessments become a lien on the affected properties. The special assessments  
10 are based upon the “special benefits” conferred on the properties affected, as distinguished from the  
11 “general benefits” conferred upon the public at large.

12 32. The creation of a local utility district and the imposition of assessments may be  
13 initiated by the Commission of a PUD or by majority petition of the property owners within the  
14 proposed local utility district. The establishment of the local utility district and the levy of the  
15 special assessments are subject to statutory notice, hearing, approval, protest and appeal procedures.

16 33. Plaintiff Snohomish PUD currently has approximately 780 local utility districts  
17 within its boundaries, and over \$6 million in special assessments levied in December 1999 for the  
18 year 2000.

### 19 **The Potential Impact of Initiative 695 On Plaintiff**

20 34. Prior to the passage of Initiative 695, there was speculation among members of the  
21 public and the media as to whether the Initiative, if approved, would apply to municipal utility rates  
22 and charges. For example, on October 12, 1999, The Bond Buyer reported on Standard & Poor’s  
23 predictions of the probable effect of Initiative 695 if it passed and stated: “Utilities could be  
24 particularly hard hit because the measure could be interpreted to include utility rate increases under  
25 the popular vote requirement.”

26 35. After passage of Initiative 695, media reports have asserted that Initiative 695 applies

1 to rates and charges established and collected by PUDs. For example, the following media reports  
2 were published after the passage of Initiative 695:

3 a. On November 4, 1999, the Portland Oregonian listed the various entities in  
4 Clark County that Initiative 695 covers in an article entitled “695 Aftermath: Budget  
5 Evaluations, Legal Challenges.” The article states that Initiative 695 applies to  
6 “electric rates charged by Clark Public Utilities,” which is a PUD.

7 b. On November 15, 1999, an editorial in the Seattle Times entitled “The Court  
8 and I-695” queried “Does the term ‘taxes and fees’ apply to electric rates?” and stated  
9 that “Utilities wonder if they can float bonds when they can’t promise bondholders  
10 rates can rise to cover the costs.”

11 36. On November 23, 1999, the sponsors of Initiative 695 filed a legislative initiative  
12 with the Secretary of State that has been referred to as the “Son of 695” Initiative. This most recent  
13 initiative states in relevant part:

14 Section One: Any tax increase adopted by the state from July 2 through  
15 December 31, 1999 is null and void and of no effect.

16 (a) For the purposes of this section, “tax” includes, but is not  
17 necessarily limited to, sales and use taxes, property taxes, business and  
18 occupation taxes, excise taxes, fuel taxes, impact fees, license fees, permit  
fees, *utility rates, including sewer and water rates*, and any monetary  
charge imposed by government.

19 (Emphasis added).

20 37. The definition of the term “tax” in the new initiative is identical to the definition in  
21 Initiative 695, except for the addition of the reference to “utility rates, including water and sewer  
22 rates.” The revised definition is further evidence of the existing uncertainty as to whether Initiative  
23 695, as enacted, applies to rates and charges established and collected by PUDs, other monetary  
24 charges and/or special assessments.

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**The Parties' Disputes**

38. Snohomish PUD contends that Initiative 695, by its terms, does not apply to rates and charges established and collected by PUDs acting in their proprietary capacity. Specifically, Initiative 695 does not apply to the rates and charges established and collected by PUDs for electric energy and water, for wastewater collection, treatment and disposal, and for other services, facilities, and commodities sold, furnished, and/or supplied by PUDs.

39. Snohomish PUD further contends that Initiative 695, by its terms, does not apply to other monetary charges by PUDs that are not commonly understood to be taxes.

40. Snohomish PUD further contends that Initiative 695, by its terms, does not apply to the levy of special assessments by PUDs within local utility districts.

41. There is a belief among some members of the public, including customers of Snohomish PUD, that Initiative 695 applies to rates and charges established and collected by PUDs, to other monetary charges by PUDs that are not in the nature of taxes, and to special assessments levied by PUDs. This belief has been documented in various media reports.

42. The State of Washington, as a representative of the citizens of Washington and as a Snohomish PUD ratepayer, and the State Auditor, as the public official responsible for auditing PUDs, have legal interests that are directly adverse to plaintiff.

43. Thus, a controversy presently exists as to whether Initiative 695 applies to rates and charges established and collected by PUDs for electric energy and water, for wastewater collection, treatment and disposal, and for other services, facilities, and commodities sold, furnished, and/or supplied by PUDs, to monetary charges by PUDs that are not commonly understood to be taxes, and to special assessments levied by PUDs.

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**The Need for Prompt Adjudication**

44. Prompt adjudication of this dispute is critical for the following reasons:

a. It is difficult, and will become increasingly so, for Snohomish PUD to conduct its utility operations under a cloud of legal uncertainty regarding some of its fundamental powers – the establishment of rates and charges for utility services and products, the imposition of other monetary charges that are not in the nature of taxes, and the levy of special assessments to fund the acquisition, construction and operation of some segments of its utility systems. As of January 1, 2000, Snohomish PUD will be faced with the Hobson’s choice of submitting every new or increased “monetary charge” to the voters, which is a practical impossibility, or risking a violation of the law and a later order to disgorge the amounts charged and collected without voter approval, which amounts will have already been spent.

b. RCW 54.24.080 mandates that Snohomish PUD establish, maintain and collect rates and charges sufficient to pay its costs. This affirmative duty would conflict with the voter approval requirement of Section 2 of Initiative 695. Thus, no matter what course of action Snohomish PUD chose, it could be in violation of the law.

c. Similarly, Title 54 establishes a detailed petition, resolution, notice, hearing, protest and appeal procedure for the establishment of local utility districts and the levy of special assessments. If voter approval is required by Initiative 695, then Snohomish PUD will be subject to two competing and conflicting statutory schemes. In particular, Snohomish PUD is uncertain regarding from whom voter approval would need to be secured, and for what.

d. As a seller of power on the wholesale market, Snohomish PUD must have the authority to establish prices for such power that reflect the value of such power on the open market. If the price is too high, Snohomish PUD will not be able to sell the

1 power. If the price is too low, its customers and ratepayers will bear that cost.  
2 Because Snohomish PUD is not a profit-making enterprise, proceeds from such  
3 power sales provide a direct benefit to Snohomish PUD's ratepayers, as revenues  
4 from such sales reduce the amount that the PUD must recover from its ratepayers  
5 through rates and charges. A voter approval requirement could effectively eliminate  
6 many surplus power sales by Snohomish PUD, particularly shorter-term "spot" sales.

7 e. The continued operation of Snohomish PUD's electric and water utility  
8 enterprises is dependent entirely upon their ability to establish and collect rates and  
9 charges sufficient to recover their costs of doing business. If every new and increased  
10 "monetary charge" by Snohomish PUD were subject to voter approval, the PUD's  
11 ratepayers could actually compel delivery of power, water or other utility-related  
12 products or services at below-cost. In fairly short order, that would drive Snohomish  
13 PUD into bankruptcy.

14 f. An essential part of the operation of a municipal utility involves the  
15 acquisition and construction of capital improvements, including without limitation  
16 new distribution, generating and transmission facilities, as well as repairs,  
17 replacements and improvements to existing facilities. Many of these projects are  
18 funded by revenue bonds, which are payable from and secured by utility rates and  
19 charges. If Snohomish PUD cannot assure investors that it has the authority to raise  
20 its rates to the extent necessary to pay its bonds, Snohomish PUD and other PUDs  
21 will find it difficult to obtain financing, and in any event will have to pay significantly  
22 higher interest rates to compensate investors for the additional risk. Without bond  
23 financing, Snohomish PUD would either have to forego necessary capital  
24 improvements, or seek voter approval to raise its rates to pay for such projects out of  
25 current revenues.

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1 g. Snohomish PUD has issued and currently has outstanding more than \$800  
2 million of revenue bonds for various purposes. Under the various resolutions of  
3 Snohomish PUD's Commission authorizing the issuance of those bonds, the PUD is  
4 obligated to establish and maintain rates and charges sufficient to pay all operating  
5 expenses, plus annual debt service costs, plus all other amounts payable from its  
6 utility revenues. This covenant constitutes one of the essential undertakings by the  
7 PUD under the contract with its bondholders. The imposition of a voter approval  
8 requirement could impair Snohomish PUD's ability to perform these and other  
9 contractual obligations under its respective bond resolutions.

10 h. Snohomish PUD has approved a water system rate increase effective  
11 December 31, 1999. In addition, Snohomish PUD has approved annual water rate  
12 increases that will become effective December of 2000, 2001, 2002, and 2003. These  
13 rate increases are necessary under RCW 54.24.080, given current budgets and cost  
14 projections, to pay costs of the water utility over that period. Even if the voter  
15 approval requirement were deemed to apply, Snohomish PUD is uncertain regarding  
16 from whom voter approval would need to be secured. For example, would the entire  
17 electorate within the District vote, or would only those areas, or those customers,  
18 served by the water utility?

19 **First Cause of Action**

20 **(Declaratory Relief – Against All Defendants)**

21 45. Snohomish PUD incorporates by this reference each and all of the allegations  
22 contained in paragraphs 1 through 44 of this complaint as fully as though set forth herein.

23 46. A controversy exists between Snohomish PUD and the defendants regarding the  
24 applicability of Initiative 695 to rates and charges established and collected by PUDs.

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47. Adjudication of this controversy would definitively resolve the parties' dispute concerning the applicability of Initiative 695. Resolution of these disputes will not depend on the particular terms of any particular proposed new or increased rate or charge.

48. Snohomish PUD therefore seeks a declaration from this court under the Uniform Declaratory Judgment Act, RCW 7.24 et seq., that Initiative 695 does not apply to rates and charges established and collected by PUDs while acting in their proprietary capacity. Specifically, Initiative 695 does not apply to the rates and charges established and collected by PUDs for electric energy and water, for wastewater collection, treatment and disposal, and for other services, facilities, and commodities sold, furnished, and/or supplied by PUDs.

### **Second Cause of Action**

**(Declaratory Relief – Against All Defendants)**

49. Snohomish PUD incorporates by this reference each and all of the allegations contained in paragraphs 1 through 48 of this complaint as fully as though set forth herein.

50. A controversy exists between Snohomish PUD and the defendants regarding the applicability of Initiative 695 to other monetary charges by PUDs that are not in the nature of taxes.

51. Adjudication of this controversy would definitively resolve the parties' dispute concerning the applicability of Initiative 695. Resolution of these disputes will not depend on the particular terms of any particular monetary charge.

52. Snohomish PUD therefore seeks a declaration from this court under the Uniform Declaratory Judgment Act, RCW 7.24 et seq., that Initiative 695 does not apply to other monetary charges by PUDs that are not in the nature of taxes.

### **Third Cause of Action**

**(Declaratory Relief – Against All Defendants)**

53. Snohomish PUD incorporates by this reference each and all of the allegations contained in paragraphs 1 through 52 of this complaint as fully as though set forth herein.

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